

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LUMMUS TECHNOLOGY HEAT TRANSFER B.V.,

Plaintiff,

22-cv-4025 (JGK)

- against -

ORDER

CREDIT AGRICOLE CORPORATE INVESTMENT
BANK,

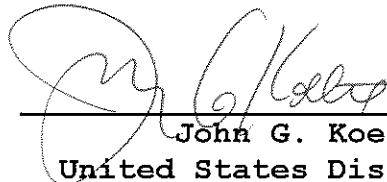
Defendant.

JOHN G. KOELTL, District Judge:

In light of the voluntary dismissal of LLC
Kirishinefteorgsintez ("Kinef") from this action, ECF No. 32,
the motion to dismiss by Kinef, ECF No. 22, is **denied as moot**.
The Clerk is directed to close ECF No. 22.

SO ORDERED.

Dated: June 28, 2022
New York, New York



John G. Koeltl
United States District Judge

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:22-cv-04025-JGK
Internal Use Only**

Lummus Technology Heat Transfer B.V. v. Credit Agricole
Corporate Investment Bank et al
Assigned to: Judge John G. Koeltl
Cause: 28:2201dj Declaratory Judgment

Date Filed: 05/17/2022
Jury Demand: None
Nature of Suit: 190 Contract: Other
Jurisdiction: Diversity

Plaintiff

Lummus Technology Heat Transfer B.V.

represented by **Christopher Valente**
K&L Gates LLP
State Street Financial Center
One Lincoln Street
Boston, MA 02111
617-261-3100
Email: christopher.valente@klgates.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Thomas F Holt
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ATTORNEY TO BE NOTICED

Kodey Matthew Haddox
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(212)-536-3920
Email: kodey.haddox@klgates.com
ATTORNEY TO BE NOTICED

V.

Defendant

**Credit Agricole Corporate Investment
Bank**

represented by **David Adam Berger**
Allegaert Berger & Vogel LLP
111 Broadway, 20th Floor
New York, NY 10006
(212) 571-0550
Fax: (212) 571-0555

Email: dberger@abv.com
 ATTORNEY TO BE NOTICED

Defendant

LLC Kirishinefteorgsintez
 TERMINATED: 06/03/2022

represented by **Abid Qureshi**

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ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
05/17/2022	<u>1</u>	COMPLAINT against Credit Agricole Corporate Investment Bank, LLC Kirishinefteorgsintez. (Filing Fee \$ 402.00, Receipt Number ANYSDC-26156563) Document filed by Lummus Technology Heat Transfer B.V...(Haddox, Kodey) (Entered: 05/17/2022)
05/17/2022	<u>2</u>	CIVIL COVER SHEET filed..(Haddox, Kodey) (Entered: 05/17/2022)
05/17/2022	<u>3</u>	REQUEST FOR ISSUANCE OF SUMMONS as to Credit Agricole Corporate Investment Bank, LLC Kirishinefteorgsintez, re: <u>1</u> Complaint. Document filed by Lummus Technology Heat Transfer B.V...(Haddox, Kodey) (Entered: 05/17/2022)
05/17/2022	<u>4</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. Identifying Corporate Parent Haldia Petrochemicals Limited, Corporate Parent Union LA Holdings L.P. for Lummus Technology Heat Transfer B.V.. Document filed by Lummus Technology Heat Transfer B.V...(Haddox, Kodey) (Entered: 05/17/2022)
05/17/2022	<u>5</u>	PROPOSED ORDER TO SHOW CAUSE WITH EMERGENCY RELIEF. Document filed by Lummus Technology Heat Transfer B.V...(Haddox, Kodey) Proposed Order to Show Cause to be reviewed by Clerk's Office staff. (Entered: 05/17/2022)

05/17/2022		***NOTICE TO ATTORNEY REGARDING CIVIL. CASE OPENING STATISTICAL ERROR CORRECTION: Notice to attorney Kodey Matthew Haddox. The following case opening statistical information was erroneously selected/entered: County code New York. The following correction(s) have been made to your case entry: the County code has been modified to XX Out of U.S. (vf) (Entered: 05/17/2022)
05/17/2022	<u>6</u>	MEMORANDUM OF LAW in Support re: <u>5</u> Proposed Order to Show Cause With Emergency Relief. Document filed by Lummus Technology Heat Transfer B.V... (Haddox, Kodey) (Entered: 05/17/2022)
05/17/2022		CASE OPENING INITIAL ASSIGNMENT NOTICE: The above-entitled action is assigned to Judge John G. Koeltl. Please download and review the Individual Practices of the assigned District Judge, located at https://nysd.uscourts.gov/judges/district-judges . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. Please download and review the ECF Rules and Instructions, located at https://nysd.uscourts.gov/rules/ecf-related-instructions.. (vf) (Entered: 05/17/2022)
05/17/2022		Magistrate Judge Jennifer Willis is so designated. Pursuant to 28 U.S.C. Section 636(c) and Fed. R. Civ. P. 73(b)(1) parties are notified that they may consent to proceed before a United States Magistrate Judge. Parties who wish to consent may access the necessary form at the following link: https://nysd.uscourts.gov/sites/default/files/2018-06/AO-3.pdf . (vf) (Entered: 05/17/2022)
05/17/2022		Case Designated ECF. (vf) (Entered: 05/17/2022)
05/17/2022	<u>7</u>	DECLARATION of Christopher J. Valente in Support re: <u>5</u> Proposed Order to Show Cause With Emergency Relief. Document filed by Lummus Technology Heat Transfer B.V.. (Attachments: # <u>1</u> Exhibit A - Email, # <u>2</u> Exhibit B- Email).(Haddox, Kodey) (Entered: 05/17/2022)
05/17/2022	<u>8</u>	ELECTRONIC SUMMONS ISSUED as to Credit Agricole Corporate Investment Bank, LLC Kirishinefteorgsintez. (vf) (Entered: 05/17/2022)
05/17/2022		***NOTICE TO COURT REGARDING PROPOSED ORDER TO SHOW CAUSE WITH EMERGENCY RELIEF. Document No. <u>5</u> Proposed Order to Show Cause With Emergency Relief was reviewed and approved as to form. (km) (Entered: 05/17/2022)
05/17/2022	<u>9</u>	DECLARATION of Todd Kramers in Support re: <u>5</u> Proposed Order to Show Cause With Emergency Relief. Document filed by Lummus Technology Heat Transfer B.V.. (Attachments: # <u>1</u> Exhibit A - Agreement (Part 1 of 2), # <u>2</u> Exhibit A - Agreement (Part 2 of), # <u>3</u> Exhibit B - Standby LC, # <u>4</u> Exhibit C - EU Regulation, # <u>5</u> Exhibit D - Letter, # <u>6</u> Exhibit E - Letter, # <u>7</u> Exhibit F -Letter, # <u>8</u> Exhibit G - Letter, # <u>9</u> Exhibit H - Letter, # <u>10</u> Exhibit I - Letter, # <u>11</u> Exhibit J - Letter, # <u>12</u> Exhibit K - Demand, # <u>13</u> Exhibit L - Notification of Demand).(Haddox, Kodey) (Entered: 05/17/2022)
05/17/2022		Minute Entry for proceedings held before Judge John G. Koeltl: Show Cause Hearing set for 5/17/2022 at 05:00 PM before Judge John G. Koeltl. Dial-in: 888 363-4749, with access code 8140049. Counsel for the plaintiff shall notify all parties of this conference, as soon as possible. (Fletcher, Donnie) (Entered: 05/17/2022)
05/17/2022		AMENDED Minute Entry for proceedings held before Judge John G. Koeltl: Show Cause Hearing set for 5/17/2022 at 05:30 PM before Judge John G. Koeltl. Dial-in:

		888 363-4749, with access code 8140049. Counsel for the plaintiff shall notify all parties of this conference, as soon as possible. (Fletcher, Donnie) (Entered: 05/17/2022)
05/17/2022	<u>10</u>	ORDER TO SHOW CAUSE FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION, It is ORDERED, that defendants Credit Agricole Corporate Investment Bank and LLC Kirishinefteorgsintez show cause before a motion term of this Court by telephone at 888-363-4749, Dial in: 814-0049 on May 27, 2022, at 10:00 AM, or as soon thereafter as counsel may be heard, why an order pursuant to Rule 65 of the Federal Rules of Civil Procedure should not be made and entered herein, granting a preliminary injunction preventing defendant Credit Agricole Corporate Investment Bank from making any payment pursuant to a demand made upon Letter of Credit No. 136963062 by defendant LLC Kirishinefteorgsintez on or about May 6, 2022, and granting such other and further relief as the Court may deem just and proper; and it is further ORDERED that, sufficient reason having been shown therefor, pursuant to Rule 65 of the Federal Rules of Civil Procedure, defendant Credit Agricole Corporate Investment Bank shall be temporarily restrained from making any payment pursuant to a demand made upon Letter of Credit No. 136963062 by defendant LLC Kirishinefteorgsintez on or about May 6, 2022, and defendant LLC Kirishinefteorgsintez shall be temporarily restrained from submitting to defendant Credit Agricole Corporate Investment Bank any further demands for draws on Letter of Credit No. 136963062, pending the hearing and determination of this motion; and it is further ORDERED that no security is required to be posted by the plaintiff; and it is further ORDERED that plaintiff's counsel, K&L Gates LLP, shall serve a copy of this Order to Show Cause, together with a copy of the papers upon which it is based, by electronic mail and overnight delivery service to: (1) Credit Agricole's counsel, David A. Berger, Allegaert Berger & Vogel LLP, 111 Broadway, 20th Floor, New York, NY 10006; and (2) LLC Kirishinefteorgsintez, The Russian Federation, 187110, Kilishi, Leningradskaya Oblast, shosse Entuziastov 1, attn.: Mr. V.E. Sornov; on or before May 20, 2022, which shall be deemed good and sufficient; and it is further ORDERED that answering papers, if any, shall be served upon Kodey M. Haddox, Esq., K&L Gates LLP, 599 Lexington Avenue, New York, New York, 10028, so as to be received on or before May 25, 2022; and it is further ORDERED that reply papers, if any shall be served upon defendants' so as to be received on or before May 26, 2022. SO ORDERED. (Telephone Conference set for 5/27/2022 at 10:00 AM before Judge John G. Koeltl.) (Signed by Judge John G. Koeltl on 5/17/22) (yv) (Entered: 05/18/2022)
05/17/2022		Minute Entry for proceedings held before Judge John G. Koeltl: Show Cause Hearing held on 5/17/2022. (Fletcher, Donnie) (Entered: 06/07/2022)
05/20/2022	<u>11</u>	DECLARATION of Christopher J. Valente re: <u>10</u> Order to Show Cause, Set Hearings,,,,,,,,,,,,, <i>Compliance with Order to Show Cause</i> . Document filed by Lummus Technology Heat Transfer B.V.. (Attachments: # <u>1</u> Exhibit A- Email, # <u>2</u> Exhibit B- Delivery Confirmation, # <u>3</u> Exhibit C- Email, # <u>4</u> Exhibit D- Delivery Confirmation).(Haddox, Kodey) (Entered: 05/20/2022)
05/24/2022	<u>12</u>	MOTION for Christopher J. Valente to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-26191735. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Lummus Technology Heat Transfer B.V.. (Attachments: # <u>1</u> Affidavit Declaration of Christopher J. Valente, # <u>2</u> Exhibit A - Certificates of Good Standing, # <u>3</u> Text of Proposed Order Proposed Order).(Valente, Christopher) (Entered: 05/24/2022)
05/24/2022	<u>13</u>	MOTION for Thomas F. Holt to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt

		number ANYSDC-26191964. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Lummus Technology Heat Transfer B.V.. (Attachments: # <u>1</u> Affidavit Declaration of Thomas F. Holt, # <u>2</u> Exhibit A - Certificates of Good Standing, # <u>3</u> Text of Proposed Order Proposed Order).(Holt, Thomas) (Entered: 05/24/2022)
05/25/2022		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>12</u> MOTION for Christopher J. Valente to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-26191735. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (sgz) (Entered: 05/25/2022)
05/25/2022		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>13</u> MOTION for Thomas F. Holt to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-26191964. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (sgz) (Entered: 05/25/2022)
05/25/2022		Minute Entry for proceedings held before Judge John G. Koeltl: Status Conference set for 5/25/2022 at 03:50 PM before Judge John G. Koeltl. Dial-in: 888 363-4749, with access code 8140049. (Fletcher, Donnie) (Entered: 05/25/2022)
05/25/2022		Minute Entry for proceedings held before Judge John G. Koeltl: Status Conference held on 5/25/2022. (Fletcher, Donnie) (Entered: 06/07/2022)
05/26/2022	<u>14</u>	ORDER FOR ADMISSION PRO HAC VICE: granting <u>13</u> Motion for Thomas F. Holt to Appear Pro Hac Vice. (Signed by Judge John G. Koeltl on 5/26/2022) (ama) (Entered: 05/26/2022)
05/26/2022	<u>15</u>	ORDER FOR ADMISSION PRO HAC VICE: granting <u>12</u> Motion for Christopher J. Valente to Appear Pro Hac Vice. (Signed by Judge John G. Koeltl on 5/26/2022) (ama) (Entered: 05/26/2022)
05/26/2022	<u>16</u>	PROPOSED ORDER TO SHOW CAUSE WITH EMERGENCY RELIEF. Document filed by Lummus Technology Heat Transfer B.V.. Related Document Number: <u>10</u> ..(Haddox, Kodey) Proposed Order to Show Cause to be reviewed by Clerk's Office staff. (Entered: 05/26/2022)
05/26/2022		***NOTICE TO COURT REGARDING PROPOSED ORDER TO SHOW CAUSE WITH EMERGENCY RELIEF. Document No. <u>16</u> Proposed Order to Show Cause With Emergency Relief was reviewed and approved as to form. (km) (Entered: 05/26/2022)
05/26/2022	<u>17</u>	AMENDED ORDER TO SHOW CAUSE FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION: It is ORDERED, that defendants Credit Agricole Corporate Investment Bank and LLC Kirishinefteorgsintez show cause before a motion term of this Court, by telephone, at 888-363-4749, Dial-in: 814-0049, on June 3, 2022, at 3:00 p.m. (ET), or as soon thereafter as counsel may be heard, why an order pursuant to Rule 65 of the Federal Rules of Civil Procedure should not be made and entered herein, granting a preliminary injunction preventing defendant Credit Agricole Corporate Investment Bank from making any payment pursuant to a demand made upon Letter of Credit No. 136963062 by defendant LLC Kirishinefteorgsintez on or about May 6, 2022, and granting such other and further relief as the Court may deem just and proper; and it is further ORDERED that, sufficient reason having been shown therefor, and pursuant to the parties' agreement and Rule 65 of the Federal Rules of Civil Procedure, defendant Credit Agricole Corporate Investment Bank shall be temporarily restrained from making any

		payment pursuant to a demand made upon Letter of Credit No. 136963062 by defendant LLC Kirishinefteorgsintez on or about May 6, 2022, and defendant LLC Kirishinefteorgsintez shall be temporarily restrained from submitting to defendant Credit Agricole Corporate Investment Bank any further demands for draws on Letter of Credit No. 136963062, pending the hearing and determination of this motion; and it is further ORDERED that no security is required to be posted by the plaintiff; and it is further ORDERED that answering papers, if any, shall be served upon plaintiff's counsel, so as to be received on or before June 1, 2022, at 8 :00 a.m. (ET); and it is further ORDERED that reply papers, if any shall be served upon defendants' counsel so as to be received on or before June 2, 2022, at 5:00 p.m. (ET). SO ORDERED. (Signed by Judge John G. Koeltl on 5/26/2022) (Telephone Conference set for 6/3/2022 at 03:00 PM before Judge John G. Koeltl.) (ks) (Entered: 05/26/2022)
06/01/2022	<u>18</u>	NOTICE OF APPEARANCE by Abid Qureshi on behalf of LLC Kirishinefteorgsintez..(Qureshi, Abid) (Entered: 06/01/2022)
06/01/2022	<u>19</u>	NOTICE OF APPEARANCE by Joseph Lee Sorkin on behalf of LLC Kirishinefteorgsintez..(Sorkin, Joseph) (Entered: 06/01/2022)
06/01/2022	<u>20</u>	NOTICE OF APPEARANCE by Erin E Parlar on behalf of LLC Kirishinefteorgsintez..(Parlar, Erin) (Entered: 06/01/2022)
06/01/2022	<u>21</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. Identifying Corporate Parent Surgutneftegas PJSC for LLC Kirishinefteorgsintez. Document filed by LLC Kirishinefteorgsintez..(Qureshi, Abid) (Entered: 06/01/2022)
06/01/2022	21 <u>22</u>	MOTION to Dismiss . Document filed by LLC Kirishinefteorgsintez..(Qureshi, Abid) (Entered: 06/01/2022)
06/01/2022	<u>23</u>	MEMORANDUM OF LAW in Support re: <u>22</u> MOTION to Dismiss . . Document filed by LLC Kirishinefteorgsintez..(Qureshi, Abid) (Entered: 06/01/2022)
06/01/2022	<u>24</u>	DECLARATION of Joseph L. Sorkin in Support re: <u>22</u> MOTION to Dismiss .. Document filed by LLC Kirishinefteorgsintez. (Attachments: # <u>1</u> Exhibit A - International Standby Practices (ISP 98)).(Qureshi, Abid) (Entered: 06/01/2022)
06/01/2022	<u>25</u>	DECLARATION of Maria Nikolaevna Fedyanina in Support re: <u>22</u> MOTION to Dismiss .. Document filed by LLC Kirishinefteorgsintez. (Attachments: # <u>1</u> Exhibit A - Agreement and Appendix 8 to the Agreement, # <u>2</u> Exhibit B - Complying Presentation made to UniCredit Bank, # <u>3</u> Exhibit C - Certified Translation of Kinef Receipt).(Qureshi, Abid) (Entered: 06/01/2022)
06/01/2022	<u>26</u>	MEMORANDUM OF LAW in Opposition re: <u>17</u> Order,,,,,, Set Hearings,,,,,, <u>10</u> Order to Show Cause,,,,,, Set Hearings,,,,,, . Document filed by LLC Kirishinefteorgsintez..(Qureshi, Abid) (Entered: 06/01/2022)
06/01/2022	<u>27</u>	DECLARATION of Joseph L. Sorkin in Opposition re: <u>17</u> Order,,,,,, Set Hearings,,,,,, <u>10</u> Order to Show Cause,,,,,, Set Hearings,,,,,, Document filed by LLC Kirishinefteorgsintez. (Attachments: # <u>1</u> Exhibit A - International Standby Practices (ISP 98)).(Qureshi, Abid) (Entered: 06/01/2022)
06/01/2022	<u>28</u>	DECLARATION of Maria Nikolaevna Fedyanina in Opposition re: <u>17</u> Order,,,,,, Set Hearings,,,,,, <u>10</u> Order to Show Cause,,,,,, Set Hearings,,,,,, Document filed by LLC Kirishinefteorgsintez. (Attachments: # <u>1</u> Exhibit A - Agreement and Appendix 8 to the Agreement, # <u>2</u> Exhibit B - Complying Presentation made to UniCredit Bank, # <u>3</u> Exhibit C - Certified Translation of Kinef Receipt).(Qureshi, Abid) (Entered: 06/01/2022)
06/02/2022	<u>29</u>	LETTER addressed to Judge John G. Koeltl from Christopher J. Valente dated June

		2, 2022 re: filing of notice of voluntary dismissal without prejudice of claims against defendant LLC Kirishinefteorgsintez. Document filed by Lummus Technology Heat Transfer B.V...(Valente, Christopher) (Entered: 06/02/2022)
06/02/2022	<u>30</u>	NOTICE OF VOLUNTARY DISMISSAL pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure, the plaintiff(s) and or their counsel(s), hereby give notice that the above-captioned action is voluntarily dismissed, without prejudice against the defendant(s) LLC Kirishinefteorgsintez. Document filed by Lummus Technology Heat Transfer B.V.. Proposed document to be reviewed and processed by Clerk's Office staff (No action required by chambers)... (Haddox, Kodey) (Entered: 06/02/2022)
06/02/2022	<u>31</u>	MEMO ENDORSEMENT on re: <u>29</u> Letter, filed by Lummus Technology Heat Transfer B.V. ENDORSEMENT: At this point, without having seen the stipulation, the parties --Lummus and Credit Agricole-- should still appear for the scheduled hearing. SO ORDERED. (Signed by Judge John G. Koeltl on 6/2/2022) (ks) (Entered: 06/02/2022)
06/03/2022		***NOTICE TO COURT REGARDING NOTICE OF VOLUNTARY DISMISSAL Document No. 30 Notice of Voluntary Dismissal, was reviewed and referred to Judge John G. Koeltl for approval for the following reason(s): the plaintiff(s) filed their voluntary dismissal and it did not dismiss all of the parties or the action in its entirety. (nd) (Entered: 06/03/2022)
06/03/2022	<u>32</u>	NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE: Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), plaintiff Lummus Technology Heat Transfer B.V., by and through undersigned counsel, hereby gives notice of its voluntary dismissal of only its claims against defendant LLC Kirishinefteorgsintez without prejudice. Defendant LLC Kirishinefteorgsintez has not answered or moved for summary judgment. (Signed by Judge John G. Koeltl on 6/3/2022) LLC Kirishinefteorgsintez terminated. (ks) (Entered: 06/03/2022)
06/07/2022	<u>33</u>	PROPOSED STIPULATION AND ORDER. Document filed by Lummus Technology Heat Transfer B.V...(Haddox, Kodey) (Entered: 06/07/2022)
06/08/2022	<u>34</u>	STIPULATED ORDER: IT IS THEREFORE ORDERED: Pursuant to Rule 65 of the Federal Rules Credit Agricole is enjoined from making any payment pursuant to, related to, resulting from, or arising out of the demand made upon Letter of Credit by Kinef on or about May 6, 2022, until the underlying dispute between Lummus and Kinef concerning the demand on Letter of Credit is resolved, whether through litigation, arbitration, or other means. SO ORDERED. (Signed by Judge John G. Koeltl on 6/7/2022) (ks) (Entered: 06/08/2022)
06/08/2022	<u>35</u>	NOTICE OF APPEARANCE by David Adam Berger on behalf of Credit Agricole Corporate Investment Bank..(Berger, David) (Entered: 06/08/2022)